IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 83 of 2006.

Reserved on: 12.12.2006.

Date of decision: 19 .12.2006.

Beli Ram, ... Appellant

Versus

State of H.P. … Respondent

Coram :

The Hon'ble Mr. Justice V.K. Ahuja, Judge.

Whether approved for reporting?[1] Yes.

For the appellant: Mr. Rajeev Jiwan and Mr. Sandeep Sharma, Advocates.

For the respondent: Mr. Ashutosh Burathoki, Additional Advocate General.

V.K. Ahuja, J.:

This is an appeal filed by the appellant against the judgment of the Court of learned Sessions Judge, Kullu, District Kullu, H.P., dated 31.3.2006, vide which the appellant was held guilty as under:

Under Section 376: The appellant was sentenced to undergo rigorous imprisonment for a period of seven years and to pay fine of Rs.5000/-. In default of payment of fine, the appellant was to suffer imprisonment of two years.

Under Section 506 I.P.C.: The appellant was sentenced to rigorous imprisonment for a period of one year and to pay fine of Rs.2000/-. In default of payment of

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[1]Whether reporters of Local Papers may be allowed to see the judgment? Yes.

fine, the appellant was to suffer imprisonment for three months.

Briefly stated the facts of the case are that on 26.5.2005 an application in writing was submitted by the father of the prosecutrix, namely 'D' that he has got four daughters and his youngest daughter named as 'P' (name not intentionally mentioned) who was born on 3.2.1990 and is of the age of 15 years. It was alleged therein that his daughter had gone for cutting of grass on 17.5.2005 at about 6/7.00 P.M., the appellant hereinafter to referred as the accused also came there and committed forcible sexual intercourse with his daughter. It was alleged that the accused had put the cloth on the mouth of the prosecutrix so that she could not raise an alarm. While leaving the place, the accused gave a threat to his daughter that in case she reported the matter to any person, he will kill her and her family. It was further alleged that his daughter reported about the occurrence to his wife 2-3 days ago and the accused was a dangerous person and of gunda type and had threatened his daughter and action be taken. Therefore, a report was lodged with the police, on which a case was registered on the same day itself. During investigation of the case, the police took in possession the entry regarding the birth of the prosecutrix that she was born on 3.2.1990 and was of the age of 15 years and about 3½ months. The girl was medically examined and according to the opinion of the Medical Officer, there were no marks of violence. As per the report, the girl was found frequent to coitus since the vagina admitted two fingers easily. The opinion of the Radiologist was also sought in regard to the age of the prosecutrix who gave the age in between 16-17 years. During investigation, Medical Officer also examined the accused who was found

fit to commit sexual act. The accused was charged under the above mentioned sections and was tried by the learned trial Court resulting in his conviction as detailed above.

The defence plea taken by the accused was that of denial and that a false case was foisted upon him because of enmity. The accused also examined a defence witness to prove that the prosecutrix had not gone for cutting of the grass on the day of the occurrence, but had gone to attend a marriage in a nearby village with several persons and had stayed there for 2-3 days.

I have heard Mr. Rajeev Jiwan and Mr. Sandeep Sharma, Advocates, for the appellant and Mr. Ashutosh Burathoki, learned Additional Advocate General, for the respondent – State.

The first plea taken by the learned counsel for the appellant was that there has been delay in lodging the F.I.R. which cannot be said to be fatal in itself but coupled with other discrepancies, it casts a doubt upon the prosecution version. It was submitted that the charge of rape was made out against the accused by the prosecutrix by her father as an afterthought and hence, it proves fatal for the prosecution case.

To substantiate his plea in regard to delay in lodging of F.I.R., the learned counsel for the appellant had relied upon a decision of this Court in **Jeet Ram** Vs. **State of H.P**., **2003 (2) Shim. L.C. 193**, wherein it was an admitted case that there were strained relations between the family of the prosecutrix and that of accused. There was delay of five days in reporting the occurrence to the police. Apart from this fact, the other grounds for acquitting were that there were two eye witnesses to the rape, but one was not produced and examined by the

prosecution, while other witness did not support the prosecution case. The statement of the prosecutrix was shrouded with grave doubts and accordingly, the accused was acquitted. The delay was considered by the Court as one of the grounds in disbelieving the prosecution story

On the other hand, the learned Additional Advocate General for the respondent/State had relied up on the decision in **State of Punjab** Vs. **Gurmit Singh and others**, **AIR 1996 Supreme Court 1393**. The observation made in Para 7 by the Hon'ble Supreme Court are relevant and are reproduced below:

> "The Courts cannot over-look the fact that in sexual offences delay in the lodging of the FIR can be due to variety of reasons particularly the reluctance of the prosecutrix or her family members to go to the police and complain about the incident which concerns the reputation of the prosecutrix and the honour of her family. It is only after giving it a cool thought that a complaint of sexual offence is generally lodged."

The learned Additional Advocate General further relied upon the decision in **State of Himachal Pradesh** Vs. **Gian Chand**, **AIR 2001 Supreme Court 2075**, in which the appeal was filed against the order of acquittal passed by this High Court. In that case, the occurrence had taken place on 29.10.1991 in the evening, whereas the FIR was lodged on 31.10.1991 in the morning. In regard to the delay, it was observed by their Lordships as under:

> "Delay in lodging the FIR cannot be used as a ritualistic formula for doubting the prosecution case and discarding the same solely on the ground of delay in lodging the first information report. Delay has the effect of putting the Court in its guard to search if any explanation has

> been offered for the delay, and if offered, whether it is satisfactory or not. If the prosecution fails to satisfactorily explain the delay and there is possibility of embellishment in prosecution version on account of such delay, the delay would be fatal to the prosecution. However, if the delay is explained to the satisfaction of the Court, the delay cannot by itself be a ground for disbelieving and discarding the entire prosecution case."

In that case the accused was a close relation of brother of late husband of prosecutrix's mother who needed her family members help in accompanying her for lodging of the FIR. It was observed in that case that it remained an unpleasant family affair on the next day of the incident which was tried to be settled within the walls of family. The complainant, the widow woman, left all by herself and having no family member willing to accompany her, proceeded alone to police station having moral support of the Panch of the village. The accused was a close relation of the in-laws of the mother of the prosecutrix being brother of wife of 'Jeth' or her deceased husband's brother and in the facts and circumstances of the case, it was observed that the delay in making the FIR can be said to have been satisfactorily explained, and, therefore, would not cause any dent in the prosecution case. It was further observed by their Lordships of the Hon'ble Supreme Court in Para 11 of the judgment as under:-

> "Delay in lodging the FIR cannot be used as a ritualistic formula for doubting the prosecution case and discarding the same solely on the ground of delay in lodging the first information report. Delay has the effect of putting the Court in its guard to search if any explanation has been offered for the delay, and if offered, whether it is satisfactory or not. If the prosecution fails to

satisfactorily explain the delay and there is possibility of embellishment in prosecution version on account of such delay, the delay would be fatal to the prosecution. However, if the delay is explained to the satisfaction of the Court, the delay cannot by itself be a ground for disbelieving and discarding the entire prosecution case. In the present case, P.W. 1 the mother of the prosecutrix is a widow. The accused is a close relation of brother of late husband of P.W. 1. P.W. 1 obviously needed her family members consisting of her in-laws to accompany her or at least help her in lodging the First Information Report at the police station. The incident having occurred in a village, the approach of the in-laws of P.W. 1 displayed rusticity in first calling upon the father of the accused and complaining to him of what has son had done. It remained an unpleasant family affair on the next day of the incident which was tried to be settled, if it could be, within the walls of family. That failed. It is thereafter only that the complainant, the widow woman, left all by herself and having no male family member willing to accompany her, proceeded alone to police station. She was lent moral support by Ruldu Ram, the village Panch, whereupon the report of the incident was lodged. The sequence of events soon following the crime and as described by the prosecution witnesses sounds quite natural and provides a satisfactory explanation for the delay. It was found to be so by the learned Sessions Judge. The High Court has not looked into the explanation offered and very superficially recorded a finding of the delay having remained "unexplained" and hence fatal to the prosecution case. It is common knowledge and also judicially noted fact that incidents like rape, moreso when the perpetrator of the crime happens to be a member of the family or related therewith, involve the honour of the family and, therefore, there is a reluctance on the part of the family of the victim to report the matter to the police and carry the same to the Court. A cool though may precede lodging of the FIR. Such

> are the observations found to have been made by this Court in State of Punjab V. Gurmit Singh (1996) 2 SCC 384: (1996 AIR SCW 998: AIR 1996 SC 1993: 1996 Cri LJ 1728) and also in the case of Harpal Singh v. State of Him. Pra., 1981 SCC (Cri) 208: (AIR 1981 SC 361: 1981 Cri LJ 1). We are satisfied that the delay in making the FIR has been satisfactorily explained and, therefore, does not cause any dent in the prosecution case."

Coming to the facts of the case, the prosecutrix is a minor girl of the age of above 15 years. She had been threatened by the accused and, therefore, had not reported the matter to her mother or father. After some days, she reported the matter to her mother i.e. after 5/6 days. Her father was away to District Mandi and was staying with his sons there. He was informed by his wife on telephone. He came to village in District Kullu and he searched for accused for 3-4 days and thereafter, submitted a complaint in writing to the police. The mother of the prosecutrix and wife of PW4 (D) was not examined by the prosecutrix being repetitive and it was submitted by the learned counsel for the appellant that her statement was material to prove as to when the prosecutrix had reported about the occurrence to her. In my opinion, her statement though would have corroborated the version of PW4(D) and the prosecutrix, but it cannot be said that her statement was very material since the facts have been stated by the father of the prosecutrix who learnt about the occurrence from his wife and he had lodged the report with the police.

In so far as the delay in lodging the report is concerned for about 8/9 days, it stands explained from the statement of the prosecutrix and her father. The girl was under a fear since she had been ravished by the accused and he had also threatened to kill her as well as

her family members. She may have gained confidence after 5-6 days and told the occurrence to her mother who called her father from the adjoining District and thereafter, after 2-3 days, the report was lodged with the police. The honour of the family was involved and it was quite likely that the marriage prospects of the prosecutrix will be affected in case such a report was lodged and, therefore, the family of the prosecutrix may have taken some time to settle the matter or possibly talk to the accused who was not available there and thereafter, they lodged the report. The decision relied upon by the learned counsel for the appellant in Jeet Ram's case supra of this High Court, is not attracted to the present case, since the facts were different and in the present case, the delay has been satisfactorily explained by the prosecution witnesses. No such facts have been brought on record to show that the complainant or her father had utilized the time in concocting a false case or mentioning names of false witnesses since no witness was introduced and the prosecution case solely rests insofar as ocular evidence is concerned, upon the testimony of the prosecutrix and to some extent upon the testimony of her father.

On carefully appraisal of the evidence led by the prosecution, I am of the opinion that the delay in question has been satisfactorily explained by the prosecution and it cannot be said to be fatal in any manner so as to hold that the prosecution case cannot be relied upon.

The second plea raised by the learned counsel for the appellant was that the age of the prosecution has not been proved by the prosecution.

Coming to the evidence led by the prosecution on this point, the prosecution had examined PW8 Mohinder Singh, Panchayat Sahayak, who had brought the original birth register. He had issued birth certificate of 'P' (prosecutrix) Ext. PW8/A, which was correct as per the original record brought by him in Court. According to Ext. PW8/A, the name has been mentioned as Sumitra Devi, the date of birth as 3.2.1990, the name of father and mother has also been mentioned and the date of the registration has been mentioned as 1.3.1990 i.e. within one month of the birth of the girl. In cross-examination, this witness admitted that the name has been mentioned as 'Sabitra Devi' He admitted that the birth certificate is in the hand writing of Chowkidar who had filled it in his presence. He also admitted that Sabitra Devi has been shown as 8th issue of Dassu Ram, whereas as per the report lodged with the police, Dassu Ram had four daughters and the prosecutrix was the youngest one. The mere fact that this has been wrongly written that the prosecutrix was the 8th child, it cannot be said that the entry of the birth was incorrect. There is nothing as to who got this entry made in the register that the prosecutrix was the 8th child. Insofar as the entry is concerned in the register, this had been made by a Chowkidar who cannot be said to be an educated person and he may have mentioned the name as was told to him. There is nothing on record to disbelieve this entry of birth and as such, I accordingly, hold that this entry of birth can be read in evidence. These entries are normally made by the Panchayat Secretary, Chowkidar or other officials who are not always well educated and conversant with the whole procedure and this fact cannot be ignored that in the village such entries are made by the persons who are

not well educated . These minor discrepancies, if any, are not fatal, have to be ignored. Therefore, this entry can be relied upon.

Coming to the other part of the evidence led by the prosecution, the prosecution had not examined the Radiologist who had given his opinion. However, PW2 Dr. Neeru Pandit Kapoor, Medical Officer, who examined the prosecutrix had stated that she got conducted the x-rays of the prosecutrix for determination of radiological age and these x-rays are Exts. PW2/C to Ext.PW2/E. This shows that x-rays were taken by this Medical Officer and can be read in evidence. The doctor referred the prosecutrix for radiological age to Radiologist vide letter Ext. PW2/F. However, the said Radiologist was not examined, but she proved the said report Ext. PW2/G and stated that the radiological age of the victim has been mentioned between 16 to 17 years. She was not put any suggestion that she identified the signatures of the Radiologist, nor any objection was made when the document was exhibited i.e. Ext. PW2/G that it cannot be read in evidence since the Radiologist must have been posted at the same hospital where PW2 was working and she had proved the report of the Radiologist also.

Coming to the report about the age of the victim was mentioned as 16-17 years, the learned trial Court has observed that since no questions were put to this Medical Officer that the age could be less than 16 years, therefore, it has to be presumed that the prosecution had accepted the report of the Radiologist that the girl was of the age of 16 years. But to my mind this conclusion has been drawn wrongly by the learned trial Court. It could have been suggested to the Medical Officer that a variation of 1-2 years was possible on either side and since no such suggestion was put up, it cannot be said that the prosecution had

accepted the age as 16 years as observed by the learned trial Court. In such reports there is variation of upto two years on either side. Therefore, it cannot be said that the prosecution had accepted this report to hold that the girl was of the age of 16 years. Thus, the age of the girl could be 16-17 years with a margin of 1-2 years on either side. The said report was not challenged by the learned defence counsel in the cross-examination. Even if for arguments sake, it is assumed that the girl was of the age of 16 years her age being less than 16 years is not relevant until and unless the plea of consent had been taken by the accused which is not so in the present case. In case the girl was of the age of above 16 years and the plea of consent was proved from the evidence, this benefit could be taken by the accused and not otherwise. Therefore, this evidence of the Radiologist also goes in favour of the prosecution and as such, it corroborates the evidence of the prosecution about the birth entry and that the girl was of the age of about 15 years as stated by the prosecutrix's father also on oath. Therefore, no benefit can be taken by the accused in this regard.

The next plea taken by the learned counsel for the appellant was that the girl was habitual to sexual intercourse since her vagina admitted two fingers easily and therefore, she was of easy virtue and her statement cannot be relied upon that she was raped by the accused. To substantiate his point, the learned counsel for the appellant had relied upon the decision of this Court in **Satish Kumar** Vs. **State of Himachal Pradesh**, **1997(3) Sim. L.C. 265**, wherein it was held that the Doctor opining no intercourse had taken place during last one week. Contradiction coming in evidence of prosecution and improvement made from time to time. The conclusion is that the prosecution has not been

able to bring home the offence against the appellant. These observations of brother Justice R.L. Khurana, are based upon facts of that case and, therefore, are not attracted to the present facts. Reliance was also placed upon the decision in **Sita Ram Vs @ Sushant Kumar,** Vs. **State of H.P.**, **1998(3) Crimes 345**, wherein there was a delay of six days in lodging the report and it was held to be a counter blast to the case registered by the accused and on the basis of the facts of that case, the accused was acquitted which decision is also based on the facts of that case.

On the other hand, the learned Additional Advocate General appearing for the State had strongly contended that the mere fact that there is medical evidence to show that the girl was habitual to sexual intercourse, it cannot be said that the girl was of easy virtue who could be ravished by any person and it has to be proved by the accused that the prosecution version cannot be relied upon that this rape was committed by him.

To substantiate his case, the learned Additional Advocate General referred to the decision in **State of U.P.** Vs. **Pappu Alias Yunus and another**, **(2005) 3 Supreme Court Cases 594**, wherein the observations made are relevant by their Lordships of the Apex Court and are being reproduced below:-

> "Even assuming that the victim was previously accustomed to sexual intercourse, that is not a determinative question. On the contrary, the question which was required to be adjudicated was did the accused commit rape on the victim on the occasion complained of. Even if it is hypothetically accepted that the victim had lost her virginity earlier, it did not and cannot in law give licence to any person to rape her. Even if the mother of the

> prosecutrix has accepted that character of her daughter was not good, that does not dilute the offence. It is the accused who was on trial and not the victim. Even if the victim in a given case has been promiscuous in her sexual behavior earlier, she has a right to refuse to submit herself to sexual intercourse to anyone and everyone because she is not a vulnerable object or prey for being sexually assaulted by anyone and everyone. In this case the High Court's view that the girl being of loose morals and easy virtue the accused were entitled to acquittal is indefensible."

The answer to all these questions raised by the learned counsel appearing for the appellant are there in the above observations made by the Hon'ble Apex Court in that case. The mere fact that the medical evidence shows that vagina admits two fingers easily and the girl may be habitual to sexual intercourse does not give a licence to the accused to commit this offence and it is only an opinion of the Medical Officer based upon examination of the prosecution. However, there are no suggestions put to the prosecution that she was habitual to sexual intercourse or that it was committed by some other person and falsely the case was foisted upon the accused. From a perusal of the statement of the prosecutrix, it cannot be concluded that she was a girl of easy virtue or that she could make a false case at the instance of her father. Therefore, the submissions made by the learned counsel for the appellant are repelled being devoid of any force.

The next plea taken by the learned counsel for the appellant was that since the statement of the father of the prosecutrix shows that on earlier occasion he had accepted a sum of Rs.500/- and settled the case of some indecent assault, it can be presumed that the father of the prosecutrix was such a person who cold lodge a false case

through his daughter. It was also submitted that the prosecutrix's father had admitted some dispute with the accused since he had taken the land for cultivation from accused and had not paid for two crops and since he was liable to pay Rs.25,000/- for the contract, therefore, to avoid such payment, he had made out a false case.

Before I draw any conclusion, I would discuss the statement of PW4(D), the father of the prosecutrix. PW4 admitted that three years back on the occasion of Lohri, he had received Rs.500/- from Tharwan Lal son of Man Singh on account of insult of his daughter as committed by him with the intervention of Man Singh, Panch. He self stated that said Tharvan Lal had outraged the modesty of his daughter. The said matter was settled at home and not reported to the police. He had nowhere stated that it was a case of rape, but it was the case of outraging the modesty of his daughter who might be of the age of 12 years at that time and in the fitness of things, he may have deemed it proper not to lodge the report. This cannot be interpreted as reflecting upon his character or truthfulness so as to hold that he is such a person who cannot be relied upon. There is nothing on record to show that there was any record of such an incident having taken place since the matter was not reported to the police and he could have easily denied the suggestion, but being a truthfulness person he admitted and stated the facts at it had happened at that time. Therefore, he cannot be disbelieved simply for this reason that on a previous occasion he had settled the matter and did not report the same to the police.

Coming to the next allegation in regard to the land transaction, he admitted that he had taken on contract land of accused for cultivation in village Thach this year. The said land was cultivated by him

on payment of half of the produce of the said land to Beli Ram. He also admitted that he had taken the said land of Beli Ram for cultivation of three crops and two crops were sown by him and whole of the produce was taken by him. He further stated that third crop which was sown by him was taken by accused as a whole which was sown by him in the month of May. He denied the suggestion that the accused had given his land for cultivation to him on contract and he was to pay Rs.25,00/- to the accused for three crops, self stated, nothing was to be paid to the accused. He denied the suggestion that when the accused demanded Rs.25,000/- from him, he refused to pay the same and made out the present false case against him.

Coming to the testimony of the father of prosecutrix, no documentary evidence has been led on record to show that any contract was entered into in between the accused and the father of the prosecutrix or that a sum of Rs.25,000/- was payable as price of the crop by the father of the prosecutrix. He admitted the suggestion that two of the crops were sown by him and stated that the third crop has been taken by the accused and in case there was any dispute, the accused could have applied to the civil Court for return of the amount or the price of the produce, but there is no proof on record to show that there was any contract in writing or a sum of Rs.25,000/- was payable by the father of the prosecutrix. Even in the absence of the documentary evidence in this regard on record, the suggestion was admitted by this witness about the contract in between the accused and him. This again leads me to draw an inference that this witness can be said to be truthfulness witness since inspite of the fact that there was no documentary evidence to substantiate the suggestion, he still admitted

the facts and therefore, cannot be deemed to be such a person who will make a false report and will use his daughter to make out a false case. The dispute if any, was minor in nature and the facts had been admitted by the father of the prosecutrix . There is no proof on record that Rs.25,000/- was payable, therefore, no benefit can be taken by the accused of this transaction, so as to conclude that the case is false one.

Coming to the last point raised by the learned counsel for the appellant that the prosecutrix had gone to attend the marriage of one Dhani Ram and had stayed there for three days, suggestions were put to the prosecutrix in her statement and one defence witness was examined also to substantiate this plea.

Coming to the statement of PW3 (P) i.e. prosecutrix, it was suggested to her that on 17.5.2005 she along with Ram Singh, Prem Chand, Khyalu, Sibdassi, Tharban Padma and Parkash Chand had gone to attend the marriage of one Dhani Ram son of Dodhu of village Telang. She stated that she does not know if there was any marriage of Dhani Ram, nor she had gone to attend the marriage on the said date. She stated that she does not know Dhani Ram who was not related to her. She denied that she stayed there from 17.5.2005 to 19.5.2005. She denied that these persons were known to her or are residents of her village, but on further cross-examination, she admitted that the persons named above are from her village, but their houses are situated at distant places. Thus, she only admitted that these persons named above were from her village, but denied that she had gone to attend the marriage of Dhani Ram and there is no evidence that any marriage of Dhani Ram took place on 17.5.2005 or that said Dhani Ram was known to the prosecutrix or her father or was related to him in any manner.

PW4 father of the prosecutrix denied that any marriage of Dhani Ram took place on 17.5.2005 and he stated that he was not knowing the said Dhani Ram son of Dodhu resident of village Telang.

Coming to the testimony of the defence witness, the accused had examined DW1 Hari Chand who stated that the prosecutrix along with her two younger brothers and other persons named by the witness had gone to village Telang to attend the marriage of Dhani Ram. He stated that they proceeded to the marriage at 11.00 AM on 17.5.2005 and reached in village Telang at about 1.30 P.M.. They all remained there for three days and returned to their village on 19.5.2005. It was rightly observed by the learned trial Court that there was no suggestion to the prosecutrix that this DW1 Hari Chand had accompanied her to the said marriage, though he has now been produced subsequently in defence by the accused. The persons who were alleged to have accompanied the prosecutrix were some other persons, but there was no suggestion that this witness DW1 Hari Chand had also gone with the prosecutrix on that day. It was also observed by the learned trial Court that DW1 could not tell the relation of PW3 i.e. the prosecutrix and Dhani Ram. He admitted that the father of the prosecutrix is not related to Dhani Ram and then changed his stand that he does not know the relations of the father of the prosecutrix and Dhani Ram. The evidence was discussed by the learned trial Court by observing that though he stated that Dhani Ram is his cousin, but he could not tell the name of grand father of Dhani Ram or the name of wife of Dhani Ram. It was rightly observed by the learned trial Court also that Dhani Ram was the best witness who could have deposed in favour of the accused and, therefore, it was rightly observed

that Hari Chand DW1 appears to be a procured witness and, therefore, his version was rightly disbelieved by the learned trial Court.

No other specific plea was raised by the learned counsel for the appellant. From a perusal of the statement of the prosecutrix examined as PW3, it is clear that there is no infirmity or contradiction and she had withstood the test of cross-examination. Nothing could be extracted in her cross-examination so as to hold that she had deposed falsely. She clearly stated that the string of her salwar was broken by the accused who committed sexual intercourse with her and when she raised the cries, accused gagged her mouth with a cloth. The mere fact that the salwar was not taken in possession by the Investigating Officer for the reasons best known to him is not sufficient to hold that the prosecution case cannot be believed. The clothes of the prosecutrix were not taken by the Medical Officer in possession observing that since the clothes had been washed, these were not taken in possession, though according to the forensic science , these can still be examined, though the fact that about nine days has elapsed cannot be ignored and it was the opinion of the Medical Officer who did not deem it necessary to take in possession the washed clothes for examination. These are two minor points and these were in view of the observation made by the persons concerned that they did not deem it necessary to take in possession the clothes, but these do not affect the veracity of the statement made by the prosecutrix and these would have only corroborated the prosecution version to some extent only. No infirmity was pointed out in the presecution version by the learned counsel for the appellant during the course of arguments and the points raised by the learned counsel for the appellant have been duly considered in the preceding paras.

In view of the above discussion, I accordingly hold that the guilt of the accused has been fully established beyond any reasonable doubt by the learned trial Court and it had come to a right conclusion holding the appellant guilty of the charge framed against him under Sections 376/506 I.P.C. The learned trial Court had imposed the minimum sentence as prescribed by law upon the appellant and those findings of the learned trial Court convicting the appellant to rigorous imprisonment for a period of seven years and to pay fine of Rs.5000/- for the offence under Section 376 I.P.C. and for offence under Section 506 I.P.C., sentencing the appellant to rigorous imprisonment for a period of one year and to pay fine of Rs.2000/- do not call for any interference by this Court and as such, those findings are affirmed. The appeal filed by the appellant is dismissed. A copy of the judgment along with record be sent to the concerned Court.

(V.K. Ahuja),
Judge

December 19, 2006
(BSS)